

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

TONYA CHAMBERS,

Plaintiff,

v.

AEROCARE HOLDINGS INC.

Defendant.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:19-CV-000987

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant AeroCare Holdings Inc. (“Defendant”) hereby removes this civil action filed by Plaintiff Tonya Chambers (“Plaintiff”) in the 355th District Court of Hood County, Texas to the United States District Court for the Northern District of Texas, Fort Worth Division. Defendant respectfully shows the Court as follows:

I. INTRODUCTION

1. On or about October 22, 2019, Plaintiff filed her Original Petition and Discovery Request (“Petition”) in the 355th District Court of Hood County, Texas (“State Court Action”), alleging disability discrimination. See Ex. A. The case is styled *Tonya Chambers v. AeroCare Holdings Inc.*, Cause No. C2019427.

2. Plaintiff served Defendant through the Texas Secretary of State on or about October 25, 2019.

3. There is no other defendant named in the Petition other than Defendant. Defendant has timely filed this Notice of Removal within the 30-day time period as required by 28 U.S.C. § 1446(b).

II. BASIS FOR REMOVAL

4. This Court has original jurisdiction over Plaintiff's claims based upon diversity of citizenship pursuant to 28 U.S.C. § 1332. Diversity of citizenship exists where the suit is between citizens of different states and the amount in controversy exceeds \$75,000. *See Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1330 (5th Cir. 1995); 28 U.S.C. § 1332.

5. Plaintiff, an individual, is a citizen of Texas. See Exhibit A ¶ 3.

6. Defendant is incorporated in Delaware and had its principal place of business in Orlando, Florida. Therefore, Defendant is a citizen of Delaware and Florida. Thus, complete diversity exists, and this Court has original jurisdiction over the State Court Action under 28 U.S.C § 1332.

7. Additionally, Plaintiff seeks recovery of damages exceeding \$200,000 but less than \$1,000,000. See Exhibit A ¶ 2. These damages include actual damages, past and future lost wages, compensatory and exemplary damages, pre- and post judgement interest, attorneys fees and Costs. See Exhibit A § IX.

8. Pursuant to 28 U.S.C. § 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending."

9. Venue is proper in the United States District Court for the Northern District of Texas, Fort Worth Division because the actions complained of in Plaintiff's Petition allegedly occurred in Hood County, Texas. See Exhibit A ¶ 5. Thus, removal to this Court is proper.

III. PROCEDURAL STATEMENTS

10. An index of all documents filed in the State Court Action, and the date of filing, is attached hereto as Exhibit D.

11. All pleadings, process, orders, and other filings in the State Court Action, including the docket, are attached to this Notice of Removal as required by 28 U.S.C. § 1446(a). See Exhibits A to D.

12. A true and correct copy of this Notice of Removal was promptly filed with the Clerk of the District Court of Hood, County, Texas as required by 28 U.S.C. § 1446(d).

13. Written notice of the filing of this Amended Notice of Removal has been or will be given to Plaintiff as required by law.

IV. COUNSEL OF RECORD

14. The following is a list of all counsel of record:

Jennifer Spencer
State Bar No. 10474900
jspencer@jacksonspencerlaw.com
James E. Hunnicutt
State Bar No. 24054252
jhunnicutt@jacksonspencerlaw.com
M. Neal Bridges
State Bar No. 24092171
nbridges@jacksonspencerlaw.com

JACKSON SPENCER PLLC
Three Forest Plaza
12221 Merit Drive, Suite 160
Dallas, Texas 75251
PH: (972) 458-5301 or 5304
FX: (972) 770-2156

Attorneys for Plaintiff

Paul E. Hash
State Bar No. 09198020
Paul.Hash@jacksonlewis.com
Shelby M. Broaddus
State Bar No. 24096209
Shelby.Broaddus@jacksonlewis.com

JACKSON LEWIS, P.C.
500 N. Akard, Suite 2500
Dallas, Texas 75201
PH: (214) 520-2400
FX: (214) 520-2008

Attorneys for Defendant

V. CONCLUSION

15. For the forgoing reasons, Defendant respectfully requests that further proceedings in the matter of the case styled *Tonya Chambers v. AeroCare Holdings Inc.*, Cause No. C2019427, pending in the 355th District Court of Hood, County, be discontinued and that this suit be removed to the Northern District of Texas, Fort Worth Division.

Respectfully submitted,

By: /s/ Paul E. Hash

Paul E. Hash, Esq.
State Bar No. 09198020
Paul.Hash@jacksonlewis.com
Shelby M. Broaddus, Esq.
State Bar No. 24096209
Shelby.Broaddus@jacksonlewis.com

JACKSON LEWIS P.C.
500 N. Akard, Suite 2500
Dallas, Texas 75201
Phone: (214) 520-2400
Facsimile: (214) 520-2008

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served upon the attorneys of record of all parties to the above cause in accordance with the Federal Rules of Civil Procedure 5 on November 22, 2019.

Jennifer Spencer
James E. Hunnicutt
M. Neal Bridges
Jackson Spencer
Three Forest Plaza
12221 Merit Drive, Suite 160
Dallas, Texas 75251

/s/ Paul E. Hash

Paul E. Hash